

Minutes
Cooperative Agreement Advisory Group
October 15, 1999

Present: Mike Ricciardi (MGE); Randy Nedrelo (Northern Engraving); Brian Borofka (WMC); Caryl Terrell (Sierra Club); Randy Kraemer (Kohler-Generator); Liz Wessel (Sierra Club); Matt Redmann (Navistar); Walt Carey (Nestlé); Lynda Wiese (DNR); Marilou Martin (EPA Region V)

Also Present: Jon Heinrich, facilitator (DNR); Mary Hobbs, minute-taker (DNR); Tim Mulholland (DNR); John Shenot (DNR); Troy Stucke (Kohler-Generator); Kim McCutcheon (DNR); Lynn Persson (DNR); Jerry Rodenberg (DNR); Karen Bender (Nestlé); Mark Harings (DNR)

Absent: Terry Grosenheider (Dept. of Commerce); Mike Gromacki (Cook Composites and Polymers)

The group, or specific members agreed to do the following tasks:

ALL:

By October 22, 1999:

- **Contribute meeting minute revisions by e-mail to Mary Hobbs**
(hobbsm@dnr.state.wi.us)

By November 15, 1999 e-mail the following to Advisory Group distribution list:

- **Summarize the following three points:**
 - 1) **What do you see as the overall goal(s) of the Environmental Cooperation Pilot Program?**
 - 2) **What is your own personal goal for the ECPP?**
 - 3) **Propose particular performance measures for those goals**

By November 19, 1999:

- **e-mail comments on the above to one another using the Advisory Group distribution list**
- **If you have agenda items for next meeting, get them to Lynda Wiese**

Lynda Wiese/Mary Hobbs: By October 22, 1999, will distribute updated e-mail addresses and contact information for Advisory Group members

<p>Next Meeting: Friday, December 3, 1999 9:00 – 12:00 Milwaukee; WDNR SER headquarters</p>

I. Presentation and Discussion of Ground Rules (Jon Heinrich):

The following topics were presented and discussed:

Public Participation:

- It was decided that the location of meetings will change in order to facilitate opportunities for local community participation;
- Opportunities for participation by the public during the Advisory Group meetings will be provided, however:
- It was agreed that the Advisory Group will need to think about ways to more actively engage the public and to encourage their attendance.

Meeting Conduct:

- It was decided that substitution of members will be encouraged when standing members cannot attend, however advance notice to DNR would be appreciated;
- Agreed that meeting minutes will be taken and made available. Additionally it was proposed that future meetings begin with a review and approval of the minutes;
- A commitment to listen to one another and to understand the other person's point of view prior to responding was agreed upon.

Group Communication:

- It was agreed that two e-mail distributions lists will be used to provide information, one specifically for the Advisory Group and a second for interested individuals. Meeting minutes and background materials (when possible) will also be provided in this manner;
- Lynda Wiese also proposed that Advisory Group meeting minutes will be made available on the DNR/CEA website;
- It was agreed that communication and dialogue among Advisory Group participants should be encouraged;
- CEA staff will distribute the Advisory Group e-mail addresses to the entire group to facilitate this communication;
- Communication as an open process will be encouraged by asking that all communication be distributed to the entire group.

Decision-making Approach:

- A lengthy discussion on the relative merits of consensus decision-making vs. "Substantive Agreement" took place;
- Two primary views were presented: 1) that consensus can sometimes result in watered-down decisions and that the Group needs to leave room for minority views/dissenting opinions; and 2) that conversely consensus

can sometimes force a Group to work through contentious issues by not allowing for an “easy-out”;

- The following summary of the discussion was proposed: the Advisory Group will strive for consensus by not allowing for “easy-outs” while also recognizing the need for minority views from time to time.
- Jon Heinrich will work on revising the “Ground Rules” document to reflect these views, and final ground rules for decision-making will be decided on at the next meeting.

Facilitator Responsibilities:

- The Group agreed with the following facilitator responsibilities as proposed by Jon Heinrich:
- The facilitator will help the group clarify their business and work effectively to address tasks;
- The facilitator will make the process easy;
- The facilitator will ensure equal opportunity for group members to participate and be heard.

II. Discussion of Second Annual Progress Report to the Legislature (Lynda Wiese):

Lynda explained that once all changes to the Report are incorporated it will be sent on to WDNR Secretary Meyer, then on to the Legislature by early November.

The following revisions were made to the Report, based on prior input from members of the Advisory Group:

- Deleted any language relating to negotiating or signing a cooperative agreement with Kohler-Generator;
- Included wording about the Interagency Innovations Team needing to keep companies informed about decisions made;
- Included a paragraph under Section E “Challenges” which introduces the idea of eliminating regulations for small businesses implementing EMS’s;
- Added language in the Introduction as follows: “EMS that is ISO 14001 or equivalent”;
- Included a footnote on page 2 addressing the issue of ISO 14001 certification requirements as described in Wisconsin Statute 299.80.

Additional revisions and questions:

The point was made by Walt Carey that there is not a direct correlation between having an EMS and being a good environmental performer. Therefore he proposed that the following wording in Section E (“Challenges”) be revised to reflect that:

“One possible approach that has been suggested is that significant elimination of regulatory requirements be introduced for small businesses that can demonstrate environmental conscientiousness through implementation of an environmental management system” (It is proposed that the underlined text above be deleted.)

Brian Borofka asked for an explanation regarding the deletion of language pertaining to signing a cooperative agreement with Kohler-Generator.

Randy Kraemer of Kohler-Generator responded by explaining that Kohler-Generator is taking a “wait and see” attitude in relation to the Environmental Cooperation Pilot Program.

III. Performance Measures:

Lynda explained that the Advisory Group has the responsibility of assisting with the development of performance measures for the Environmental Cooperation Pilot Program as a whole, rather than on individual agreements.

The discussion began with Matt Redmann suggesting that normalized measurements per unit be utilized in measuring “pollution reduction” and “improved performance”. He proposed that this would better reflect true improvements rather than misleading data such as reductions based on farming out manufacturing to other facilities.

At this point Randy Kraemer proposed that an assessment of the goals of the Environmental Cooperation Pilot Program needed to be addressed as there appeared to be confusion about the intent of the Program as a whole. Specifically, Mr. Kraemer felt the original intent of the legislation was to grant regulatory flexibility for companies that have already gone beyond compliance and proven themselves as superior environmental performers. He expressed the opinion that this was a very different goal from showing “continuous improvement” according to criteria set by the WDNR.

In response, Lynda Wiese explained that part of the cooperative agreement negotiation process will involve determination of specific goals for companies to achieve “superior environmental performance” and “continuous improvement”.

Brian Borofka expressed the opinion that the Environmental Cooperation Pilot Program be used as an *alternative* path rather than requiring *additional* burdens of participants beyond existing regulations. He explained that an *alternative* emphasis enables companies to experiment with innovative methods, whereas an *additive* approach means that someone outside the company sets the goals.

At this point Jon Heinrich suggested that the discussion of Performance Measures be temporarily tabled and that the Group should move directly to discussion of “continuous improvement” since the discussion was heading in that direction.

IV. Continuous Improvement as it Relates to Environmental Performance for the Cooperative Agreement Pilots (Lynda Wiese):

Lynda began the discussion by highlighting the question raised by Randy Kraemer: “Is the goal of the Cooperative Agreement Program recognition for past accomplishments, or encouragement of continuous improvement?”

The statutory language says the Program should “encourage superior environmental performance”. Lynda explained that while the Program should recognize previous activities, the goals of the DNR also need to be addressed in the cooperative agreements. However, specific goals can be reached by negotiation with the company.

Liz Wessel also emphasized that goals are already established within the existing system, and that this Program should not abandon that emphasis. She made the point that the public and the DNR have a right to see specific goals addressed.

Randy Kraemer explained that Kohler-Generator operates with the goal of zero-emissions and works towards continuous improvement, however the attainment of such goals is limited by economic feasibility.

Randy Nedrelo supported Randy Kraemer’s point regarding the economic limitations of continuous improvement. He said that Northern Engraving has actually improved its economic performance as a result of improving environmental performance through the adoption of an environmental management system. However, he made the point that participating companies should be allowed to determine how they will improve their performance, rather than having the DNR decide this for them.

Lynda asked for clarification from the group that they were recommending broader goals be established for participants. Randy Nedrelo agreed that large goals should be emphasized, allowing individual companies to determine how they might specifically achieve those given particular constraints.

Liz Wessel emphasized that evaluating set goals should not be left up to the individual company alone. They should be forced to look “outside the box”.

Walt Carey felt the Program should grant flexibility first, and negotiate the achievement of superior environmental performance. He expressed concern about the DNR’s response to Kohler-Generator’s Draft Agreement. He did not feel that Kohler-Generator had asked for very much in the way of flexibility and that

perhaps the DNR was asking more from them than was justified by the flexibility request. DNR did not appear to be willing to make substantive changes, he said.

Brian Borofka made the point that the current discussion on goals for individual participants was healthy since it served to clear up lingering confusion. He suggested that the role of the Cooperative Agreement Program as a pilot should mean that we focus on experimenting with a variety of different approaches in order to determine what works best for particular companies. He suggested that the Program focus on the variety of templates used by participating companies as they explore paths to superior environmental performance.

Marilou Martin of EPA Region V drew comparisons to EPA's work with Project XL. She emphasized that many companies have been able to improve performance without flexibility. Additionally, granting flexibility is often not easily achieved by regulatory agencies. In order to provide flexibility, agencies often need very specific justifications from companies regarding how this flexibility will lead to better performance. Otherwise it's often difficult to grant as statutes frequently limit what can be done.

Matt Redmann expressed his view that other innovative programs such as Climate-Wise and Waste-Wise worked well for Navistar because they set broad goals and left the specifics of how to achieve those up to participating companies.

Walt Carey emphasized the critical importance of significant flexibility if companies are going to be able to make real improvements in their processes.

Marilou Martin agreed, but reiterated that regulatory agencies need proof that improved environmental performance was achieved as a result of regulatory flexibility.

Brian Borofka brought the discussion back to the idea that as a Pilot Program, cooperative agreements are an opportunity for innovation. He felt the approach should be one of determining how participating companies realize environmental benefits, and then evaluating what regulatory constraints exist and how those might be addressed in an innovative fashion.

Matt Redmann introduced a discussion regarding the legal difference between "continuous improvement" and "continual improvement". He made the point that "continual" is process-based while "continuous" implies end-goals. He felt that the term "continual" should be used regarding improvements in companies' environmental performance, as this conforms with the language used in the ISO 14001 standard.

At this point the facilitator, Jon Heinrich, summarized the discussion on "continual improvement" and specific goals for participating facilities as follows:

Main Issues Identified:

- A. Goals and their role in the Environmental Cooperation Pilot Program:
 - 1) Who establishes the goals and how is that accomplished?
 - 2) What does a goal mean in the context of the cooperative agreement?
- B. Establishing what as opposed to how to achieve goals:
 - 1) Overall goals are set by the Environmental Cooperation Pilot Program, but how are these to be established within individual environmental management systems?
 - 2) What will be the role of public involvement and what will the benefits of it be in helping to establish goals?
- C. Issue of trust in relations between participating companies and the regulatory agencies;
- D. Where is the flexibility?
 - 1) Kohler's experience
 - 2) Incentives for participation are lacking
- E. What is "Superior Environmental Performance"? How is it defined and by who?
- F. How to achieve innovation?
 - 1) Provision and allowance for innovation within the Environmental Cooperation Pilot Program;
 - 2) What are the regulations and requirements that can help promote innovation?

Jon Heinrich proposed that given the number of underlying issues raised during the discussion on Program goals and "continual improvement", that the discussion on performance measures should be postponed until the next meeting.

The point was made that there is a clear relationship between the discussion on Program goals and performance measures.

Tasks: Agreement was reached on continuing the discussion through e-mail, and the following assignment was proposed for Advisory Group members:

Each Advisory Group member will communicate the following information to the entire group by e-mail prior to November 15, 1999:

- 1) What do you think is the goal of the Environmental Cooperation Pilot Program?
- 2) What is your own particular goal for the ECPP?
- 3) Propose performance measures for the above goals.

Jon Heinrich added this additional task:

- 1) Each participant contribute any additional comments and points of clarification for these meeting minutes

Jon then proposed the group move on to a discussion of administrative issues.

V. Administrative Issues

Next meeting date and location was proposed as follows:

Friday, December 3, 1999

9:00 am to Noon

Milwaukee: specific location to be determined

Action Items:

- 1) Mary Hobbs will distribute e-mail addresses to all Advisory Group members by October 22, 1999
- 2) All Advisory Group members will distribute individual lists of program goals and performance measures to one another prior to November 15, 1999.
- 3) Group members will provide comments on one another's goals to the entire group prior to November 19, 1999.
- 4) CEA staff will summarize these points for the next meeting.

The meeting was adjourned at 11:45 am.